

AMENDED IN SENATE MAY 20, 2010

AMENDED IN SENATE MAY 5, 2010

AMENDED IN SENATE APRIL 8, 2010

SENATE BILL

No. 900

**Introduced by Senators Alquist and Steinberg
(Coauthor: Senator Pavley)**

January 26, 2010

An act to add Division 114 (commencing with Section 135000) to the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 900, as amended, Alquist. California Health Benefits Exchange.

Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and qualified employers, as specified, and meets certain other requirements. Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and the regulation of health insurers by the Department of Insurance. Existing law creates the California Health and Human Services Agency, which consists of various departments.

This bill would establish the California Health Benefits Exchange (the Exchange) within the California Health and Human Services Agency and would require the Exchange to, among other things, implement specified functions imposed by the federal Patient Protection and Affordable Care Act in a consumer-friendly manner, enter into contracts with health care service plans and health insurers seeking to offer coverage in the Exchange, and provide a choice in each region of

the state between 5 levels of coverage, as specified. The bill would authorize the Exchange to take other various actions and would require the Exchange to be governed by a board composed of ~~an unspecified number of 8 members~~ appointed by the Governor and the Legislature in ~~an unspecified~~ *a specified* manner. The bill would create the California Health Benefits Exchange Fund in the State Treasury and would authorize the board to use moneys in the fund, upon appropriation by the Legislature, for purposes of these provisions. *The bill would also require the California Health and Human Services Agency to apply for and receive federal funds for purposes of establishing the Exchange and would make those funds available to the agency and the board for those purposes upon appropriation by the Legislature.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 114 (commencing with Section 135000)
2 is added to the Health and Safety Code, to read:

3
4 DIVISION 114. CALIFORNIA HEALTH BENEFITS
5 EXCHANGE
6

7 135000. There is hereby established in the California Health
8 and Human Services Agency, the California Health Benefits
9 Exchange.

10 135001. For purposes of this division, the following definitions
11 shall apply:

12 (a) "Board" means the board described in subdivision (f) of
13 Section 135004.

14 (b) "Carrier" means either a private health insurer holding a
15 valid outstanding certificate of authority from the Insurance
16 Commissioner or a health care service plan, as defined under
17 subdivision (f) of Section 1345, licensed by the Department of
18 Managed Health Care, including, but not limited to, a local
19 initiative plan, ~~a county-organized~~ *county-organized* health system,
20 or a joint venture of local initiative plans and ~~county-organized~~
21 *county-organized* health systems.

22 (c) "Exchange" means the California Health Benefits Exchange
23 established by Section 135000.

1 (d) “Fund” means the California Health Benefits Fund
2 established pursuant to Section ~~135009~~ 135010.

3 (e) “Health plan” and “qualified health plan” have the same
4 meanings as those terms are defined in Section 1301 of the Act.

5 (f) “The Act” means the federal Patient Protection and
6 Affordable Care Act (Public Law 111-148).

7 135002. The purpose of this division is to implement the
8 provisions of the Act requiring the establishment of an American
9 Health Benefit Exchange in this state by creating an exchange in
10 state government.

11 135003. It is the intent of the Legislature that the Exchange
12 provide a consumer friendly process that facilitates the seamless
13 enrollment of individuals in health care coverage.

14 135004. The Exchange shall do all of the following:

15 (a) Meet the requirements imposed by Section 1311 of the ~~Act~~.
16 ~~The Exchange shall Act, and~~ perform all of the following functions
17 in a consumer-friendly manner:

18 (1) Provide for the operation of a toll-free telephone hotline to
19 respond to requests for assistance.

20 (2) Maintain an Internet Web site through which enrollees and
21 prospective enrollees of qualified health plans may obtain
22 standardized comparative information on those plans.

23 (3) Assign a rating to each qualified health plan offered through
24 the Exchange in accordance with the criteria developed under
25 paragraph (3) of subdivision (c) of Section 1311 of the Act.

26 (4) Utilize a standardized format for presenting health benefits
27 plan options in the Exchange, including the use of the uniform
28 outline of coverage established under Section 2715 of the federal
29 Public Health Service Act.

30 (5) Consistent with the system established under Section 1413
31 of the Act, inform individuals of eligibility requirements for the
32 Medi-Cal program, the Healthy Families Program, or any
33 applicable state or local public health care coverage program and,
34 if, through screening of an application by the Exchange, the
35 Exchange determines that an individual is eligible for any of those
36 programs, enroll the individual in that program.

37 (6) Establish and make available by electronic means a
38 calculator to determine the actual cost of coverage after the
39 application of any premium tax credit under Section 36B of the

1 Internal Revenue Code of 1986 and any cost-sharing reduction
2 under Section 1402 of the Act.

3 (7) Grant a certification, subject to Section 1411 of the Act and
4 any implementing regulations, attesting that, for purposes of the
5 individual responsibility penalty under Section 5000A of the
6 Internal Revenue Code of 1986, an individual is exempt from the
7 individual responsibility requirement or from the penalty imposed
8 by that section because of either of the following:

9 (A) There is no affordable qualified health plan available
10 through the Exchange, or the individual's employer, covering the
11 individual.

12 (B) The individual meets the requirements for any other
13 exemption from the individual responsibility requirement or
14 penalty.

15 (b) Negotiate and enter into contracts, including selective carrier
16 contracts, with carriers seeking to offer coverage in the Exchange.

17 (c) Establish quality incentives and rewards consistent with
18 subdivisions (g) and (h) of Section 1311 of the Act, including, but
19 not limited to, incentives that encourage the use of delivery systems
20 that deliver cost-effective, high-quality care.

21 (d) Provide a choice of health plans in each region of the state,
22 including a choice in each region of the state between the five
23 levels of coverage contained in subdivisions (d) and (e) of Section
24 1302 of the Act.

25 (e) Employ necessary staff, including actuarial staff.

26 ~~(f) Be governed by a board with four-year terms whose members~~
27 ~~are appointed by the Governor and the Legislature. This board~~

28 *(f) Be governed by a board consisting of eight members with*
29 *four-year terms. Of the eight members, four shall be appointed by*
30 *the Governor, two shall be appointed by the Senate Committee on*
31 *Rules, and two shall be appointed by the Speaker of the Assembly.*
32 *Each of the appointed members shall have demonstrated knowledge*
33 *and experience in health care and issues relevant to the board's*
34 *responsibilities. The board shall hold public meetings on a*
35 *bimonthly basis, or more frequently as necessary.*

36 (g) Receive federal funds for purposes of establishing and
37 administering the Exchange, including funds made available
38 pursuant to Section 1311 of the Act.

39 135005. The Exchange may do any of the following:

1 (a) Issue rules and regulations, as necessary. Until January 1,
2 2014, any rules and regulations issued pursuant to this subdivision
3 may be adopted as emergency regulations in accordance with the
4 Administrative Procedure Act (Chapter 3.5 (commencing with
5 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
6 Code). The adoption of these regulations shall be deemed an
7 emergency and necessary for the immediate preservation of the
8 public peace, health and safety, or general welfare.

9 (b) Apply for and receive funds from private foundations.

10 (c) Exercise the federal option set forth in paragraph (2) of
11 subdivision (b) of Section 1311 of the Act to provide a single
12 exchange for providing services to both qualified individuals and
13 qualified small employers if the Exchange makes all of the
14 following determinations:

15 (1) Providing coverage through a single exchange will provide
16 a significant benefit for the health coverage marketplace in the
17 state.

18 (2) Providing coverage through a single exchange will be cost
19 effective for both qualified individuals and qualified small
20 employers.

21 (3) The Exchange can make coverage available through a single
22 exchange on a guarantee issue basis without undue risk of adverse
23 selection.

24 (d) Enter into other contracts as are necessary or proper to carry
25 out the duties of the Exchange, including, but not limited to,
26 contracts for enrollment processing.

27 (e) Determine the health benefits coverage for small employers
28 that the Exchange will contract to purchase from participating
29 carriers.

30 (f) Appoint committees, as necessary, to provide technical
31 assistance in the operation of the Exchange.

32 (g) Undertake activities necessary to administer the Exchange,
33 including marketing and publicizing the Exchange and establishing
34 rules, conditions, and procedures for ensuring carrier, employer,
35 and enrollee compliance with Exchange requirements, consistent
36 with federal law and regulations.

37 (h) Consistent with federal procedures established under
38 subdivision (e) of Section 1312 of the Act, establish procedures
39 to allow agents or brokers to do both of the following:

1 (1) Enroll individuals in any qualified health plan in the
2 individual or small group market as soon as the plan is offered
3 through the Exchange.

4 (2) Assist individuals in applying for premium tax credits and
5 cost-sharing reductions for health plans sold through the Exchange.

6 *(i) Consistent with subdivision (d) of Section 1311 of the Act,*
7 *include within the premiums charged to enrollees or employers*
8 *purchasing coverage through the Exchange an amount sufficient*
9 *to pay the actual, reasonable, and necessary administrative costs*
10 *of the Exchange.*

11 135006. (a) Notwithstanding any other provision of law, the
12 Exchange shall not be subject to licensure or regulation by the
13 Department of Insurance or the Department of Managed Health
14 Care.

15 (b) Carriers that contract with the Exchange shall be in good
16 standing with their respective regulatory agencies.

17 135007. If an individual or an employer is dissatisfied with
18 any action or failure to act that has occurred in connection with
19 eligibility for, or enrollment in, the Exchange, the individual or
20 employer shall have the right to appeal to the board and shall be
21 accorded an opportunity for a fair hearing. Hearings shall be
22 conducted pursuant to the provisions of Chapter 5 (commencing
23 with Section 11500) of Part 1 of Division 3 of Title 2 of the
24 Government Code.

25 135008. Nothing in this division shall be construed to compel
26 an individual to enroll in a qualified health plan or to participate
27 in the Exchange.

28 *135009. The California Health and Human Services Agency*
29 *shall apply for and receive federal funds for purposes of*
30 *establishing the Exchange, including funds made available*
31 *pursuant to Section 1311 of the Act.*

32 ~~135009.~~

33 135010. (a) The California Health Benefits Exchange Fund
34 is hereby created in the State Treasury as a special fund consisting
35 of revenue necessary for the purposes of this division. Any moneys
36 in the fund that are unexpended or unencumbered at the end of a
37 fiscal year may be carried forward to the next succeeding fiscal
38 year.

39 (b) The board shall establish a prudent reserve in the fund.

1 (c) ~~Moneys~~—*Except as provided in subdivision (d), moneys in*
2 *the fund shall, upon appropriation by the Legislature, be used by*
3 *the board for the purposes of this division.*

4 (d) *Moneys in the fund received pursuant to Section 135009*
5 *shall, upon appropriation by the Legislature, be used by the*
6 *California Health and Human Services Agency or the board for*
7 *purposes of establishing the Exchange.*

8 ~~(d)~~

9 (e) Notwithstanding Section 16305.7 of the Government Code,
10 all interest earned on the moneys that have been deposited into the
11 fund shall be retained in the fund.